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TELECOPY TRANSMISSION FORM**Firm File Reference: BAAS5002AP****Date: July 1, 2003**

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|---|

TO: Examiner Nini F. Legesse
USPTO, GR./A.U. 3711
Telecopier Number: 703/872-9303

FROM: Andrew T. Prokopetz, Reg. No. 52,134
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Examiner Nini F. Legesse

Application 09/881,237

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Applicant Initiated Interview Request FormApplication No.: 09/881,237First Named Applicant: William G. BickelExaminer: Nini F. LegesseArt Unit: 3711Status of Application: Final Office Action 4/14/2003**Tentative Participants:**(1) Andrew T. Prokopetz(2) B.B. Olive(3) Mark GoodwillieProposed Date of Interview: Thursday July 3, 2003Proposed Time: 9 a.m.**Type of Interview Requested**(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video ConferenceExhibits to be Shown or Demonstrated: ☐ Yes ☒ NoFAX RECEIVED
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GROUP 3700**Issues to be Discussed**

| Issues Rej., Obj., etc. | Claims/ FIG. #S | Prior Art | Discussed | Agreed | Not Agreed |
|---|--|--|--------------------------|--------------------------|--------------------------|
| (1) <u>Rejection</u> | <u>2, 3, 6, 7, 8, 9, 12 and 13</u> | <u>Piazza (3,578,801)</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) <u>Rejection</u> | <u>4, 5, 10 and 11</u> | <u>Piazza in view of Tyner (6,254,498)</u> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (3) <u>Specification Marked-up copy submittal</u> | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

☒ Continuation Sheet Attached**Brief Description of Arguments to be Presented:**

Applicant would like to discuss the differences in the 102 and 103-cited prior art from the claimed invention, which Applicants would assert were mistakenly and prematurely applied. Specifically that the invention claimed by Piazza claims and teaches a baseball practice device that has the same proportions of weight as used in the common wooden bat. Piazza's bat can even be used to hit a practice ball made of plastic. Applicants' invention is designed of hollow PVC tube of uniform diameter that is lightweight so that repeated practice swings may be taken without tiring as with the Piazza bat or any other typically weighted bats. Applicants' invention is not constructed or intended to be used to hit any practice ball. The Piazza patent teaches a tapered bat and claims an inertia top weighted bat with a relatively heavy sliding weight that moves on a guide rod by centrifugal motion

we do not agree

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Continuation Sheet

→ towards the top portion of the bat causing the user to develop a natural momentum swing. Applicant's claimed invention does not teach or claim such sliding weight that changes the weight of the top of Piazza's bat, but rather teaches and claims a lightweight PVC constructed device that teaches the proper swing by creating a snapping sound made by a sliding hollow tube hitting a solid plug when the hitter achieves full extension. Movement of Applicants' sliding tube does not affect the weight of the practice device. Applicants' sliding tube is extremely lightweight and does not impart any added inertia weight transfer during the swinging of Applicants' device as in Piazza. This is a major fundamental difference between the Piazza device and Applicants' device - the sliding weight used to develop the swing in Piazza via its inherent weight transfer versus the hollow light weight sliding tube in Applicants' device that creates a snapping sound at full extension with no weight transfer. Furthermore, Applicant's device is of uniform diameter whereas Piazza teaches a tapered bat. Piazza also has a removable handle to provide a means to alter the weight that slides internally. Applicants' device has no removable handle and they do not teach or claim that their sliding hollow PVC tube can be altered in weight size since Applicants' sliding tube is of a fixed infinitesimally light weight. Also, Applicants claim a method of teaching the proper swing whereas Piazza merely claims a practice baseball bat with no method claims. We therefore respectfully argue that Piazza does not anticipate Applicants' claimed invention and request that claims 2, 3, 6, 7, 8, 9, 12 and 13 be allowed.

? → Examiner has rejected claims 4, 5, 10 and 11 as unpatentable over Piazza in view of Tyner. Again we respectfully argue that there is a fundamental difference between the device taught and claimed in Piazza versus that which is taught and claimed in Applicants' invention. Even if Tyner provides for a handle made of foam rubber and a solid plug made of plastic, the Piazza practice bat does not work on the same principals nor does it teach the same type swing as Applicants' invention. Applicants teach a swing that requires the proper motion in the wrist area to create the snapping sound during full extension. If the user does not move the wrists properly in swinging the device then no snapping sound will occur. However, Piazza's device does not teach this motion and regardless of what Tyner provides to the Piazza device it still will not teach the same swing taught by the Applicants' device. For these reasons, Applicants respectfully argue that Piazza in view of Tyner does not make obvious claims 4, 5, 10 and 11 and Applicants respectfully request that these claims be allowed.

Applicants respectfully point out that their original Application was submitted *pro se* and request that Examiner will take this into consideration in Examiner's issuance of this Final Office Action with new prior art cited.